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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Jason Crews,

10 Plaintiff,

11 v.

12 Donald Hiatt,

13 Defendant.
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No. CV-24-02129-PHX-CDB

ORDER

15 This case has been referred to United States Magistrate Judge Lynnette C.
16 Kimmins for settlement.

17 Accordingly,

18 **IT IS ORDERED** that this matter is set for a Settlement Conference on
19 **December 9, 2024, at 10:00 a.m.**, before Magistrate Judge Lynnette C. Kimmins. The
20 conference will be held by Zoom, with links to be provided by the Court.

21 Lead trial counsel and a representative of each party with settlement authority
22 shall attend the settlement conference. If non-monetary relief is sought, the person with
23 authority to authorize that relief needs to be present.

24 **IT IS FURTHER ORDERED** that on **November 15, 2024, at 1:00 p.m.**, the
25 Court will hold a telephonic conference to discuss the Court's settlement procedure,
26 ensure the appropriate participants' attendance, and determine whether any special
27 accommodations are needed. Plaintiff and Defendant shall call in using the following
28 information:

Dial-in Number: (855) 244-8681
Access Code: 2314 657 5552

IT IS FURTHER ORDERED that, to ensure the productivity of the settlement conference, the parties must exchange written settlement proposals before the conference. On or before **November 22, 2024**, Plaintiff shall submit a written itemization of damages and settlement demand to Defendant with a brief explanation of why Plaintiff's settlement demand is appropriate. On or before **December 2, 2024**, Defendant shall submit a written offer to Plaintiff with a brief explanation of why Defendant's settlement offer is appropriate. These documents shall be limited to five pages. Each party shall submit their demand or offer to the Court with their position statement.

IT IS FURTHER ORDERED that each party must provide the Court with a Confidential Position Statement on or before **December 5, 2024 at noon**. The position statements, demand, and offer should be submitted to kimmings_chambers@azd.uscourts.gov. Your confidential position statements shall not exceed 10 pages, exclusive of exhibits, and you are allowed no more than 5 attached exhibits. You will have ample opportunity to present other records or evidence during caucuses. Do not submit documents that are already part of the Court record; instead, direct the Court to the document's location on the docket. Your position statements shall contain:

1. A brief statement of the facts;
2. An analysis of the claims or defenses, including a forthright evaluation of the parties' likelihood of prevailing on the claims or defenses, and a description of the major issues in dispute;
3. A brief summary of motions (pending and anticipated);
4. A summary of settlement discussions;
5. The date counsel reasonably anticipates the matter will be tried;
6. Your best possible outcome at trial and your worst possible outcome at trial; and
7. Your anticipated expense of litigation between now and the end of trial.

1 Advance preparation will increase the potential for a satisfactory resolution for the
 2 parties. Therefore, prior to the conference, each party should evaluate the following:

- 3 ○ The goals of the litigation and the issues (in and outside of this lawsuit) to be
 4 addressed at the settlement conference;
- 5 ○ The client's understanding of the opposing side's goals;
- 6 ○ Counsel's realistic assessment of the strengths and weaknesses of your case;
- 7 ○ Counsel's realistic assessment of the opposing side's case and the basis for the
 8 opposition's position;
- 9 ○ The factual and legal points where both parties have agreement;
- 10 ○ The impediments to settlement. Financial? Emotional? Legal?;
- 11 ○ Any possibilities for a creative resolution of the dispute;
- 12 ○ Whether settlement or further litigation is more suited to accomplish your client's
 13 goals; and
- 14 ○ The future litigation costs (fees and expenses) should a settlement not be reached.

15 The settlement conference will begin with all participants in the same room. The
 16 Court will open with a brief statement describing its procedures. Thereafter, each side
 17 will be given an opportunity to make a brief opening statement. An opening statement
 18 should be frank and open, but the Court expects each also will be courteous and
 19 respectful. Remember, this conference is intended to be conciliatory and, as such, it is
 20 critical that no one makes personal attacks on the opposing parties during this session.
 21 Although each party will have the opportunity to speak, no party is required to do so, nor
 22 will anyone be required to respond to questions.

23 After the opening session, typically, the parties will adjourn to separate caucus
 24 rooms. The Court encourages all parties to keep an open mind in order to reassess their
 25 previous positions and to discover creative means for resolving the dispute. The Court
 26 will not impose its views on either party. The terms of a settlement will be made only by
 27 the parties and their attorneys.

28 Counsel and any unrepresented party shall notify the Court in writing at least **five
 business days** before the Settlement Conference if one or more of the attorneys or
 unrepresented parties believe that the Settlement Conference would be futile because, for

1 example, a party or insurer has adopted a position from which they refuse to deviate. The
2 Court will arrange separate or joint telephonic conference(s) with counsel and any
3 unrepresented party as soon as possible. If the Court is not notified by either party that a
4 Settlement Conference would be futile, the Court will presume that all counsel, their
5 clients, and any unrepresented party believe that there is a reasonable, good faith
6 opportunity for settlement.

7 Counsel should consider bringing a sample or proposed settlement agreement and
8 release. Having such a document prepared before the conference will ensure that all the
9 necessary terms and conditions will be addressed before adjournment. At the conclusion
10 of the conference, the presiding judge will only be advised whether an agreement has
11 been reached.

12 I am confident you will be able to take advantage of the opportunity afforded by
13 this settlement conference and look forward to assisting you with a successful resolution
14 of the case. If you need to alter any dates or times set in this letter, or have any questions
15 or concerns prior to the conference, please contact my law clerk, Heather McIntyre at
16 520-205-4302.

17 Dated this 13th day of November, 2024.

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21 Honorable Lynnette C. Kimmins
22 United States Magistrate Judge
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